

1 disabilities to request changes, accommodations, or
2 modifications to the voting procedures outlined in the
3 Texas Election Code during the November 8, 2022, General
4 Election."

5 Did I read that correctly?

6 A. Yes, ma'am.

7 Q. Has Harris County implemented any new policies
8 with respect to voters with disabilities in the -- since
9 end of May 2022?

10 A. New policies, no.

11 Q. Has Harris County introduced any new procedures
12 for voters with disabilities and how Harris County
13 treats voters with disabilities since May of 2022?

14 A. No.

15 Q. I'm going to introduce our second exhibit.

16 (Exhibit No. 2 was marked.)

17 Q. (BY MS. HUNKER) Do you have the exhibit in
18 front of you?

19 A. I do.

20 Q. Do you recognize this exhibit?

21 A. I do.

22 Q. And what is the exhibit?

23 A. It's the notice to voters with disabilities.

24 Q. And what is the purpose of this document?

25 A. It's a form required by the secretary of state

1 for us to post in all active voting centers as well.
2 And it lists our -- the ADA requirements and how a voter
3 with disabilities can distribute a -- or complete and
4 distribute a disability complaint form to our office
5 should they have one.

6 Q. And this is the notice that was issued by your
7 particular office; is that correct?

8 A. Yes. We produced this.

9 Q. So turning to the first paragraph, it reads:
10 "The Americans with Disabilities Act requires that
11 Harris County voting program be accessible to
12 individuals with disabilities. Harris County Elections
13 Department has a grievance procedure providing for
14 prompt and equitable resolution of complaints alleging
15 actions prohibited by the ADA."

16 Did I read that correctly?

17 A. Yes.

18 Q. Then if we move to the next paragraph, it
19 begins with "If you or a person with a disability has
20 encountered obstacles to voting or has been
21 discriminated against in violation of the ADA, you can
22 file a complaint using the Disability Complaint Form."

23 Did I read that correctly?

24 A. Yes.

25 Q. Does Harris County work to ensure that its

1 voting program is accessible to voters with
2 disabilities?

3 A. Yes.

4 Q. And can you maybe give me a short summary of
5 steps that Harris County took to ensure that the 2022
6 general election was accessible to voters with
7 disabilities?

8 A. It's quite broad. We -- on the have top level
9 we have our accessibility department that maintains our
10 vote centers in terms of insuring that their
11 architectural barriers are rectified, should we find
12 any. We have a subject mattic -- matter expert and a
13 team of surveyors that survey each of our vote centers
14 that we intend to use for the upcoming election,
15 whatever election that might be, with a very extensive
16 checklist. And again, architectural barriers being kind
17 of top level there as well as connectivity, internal
18 room sizes, et cetera.

19 And once those surveys are reviewed for
20 subject matter experts, then we -- in order to -- if --
21 if the vote center is found noncompliant as it pertains
22 to the American -- Americans with Disabilities Act, then
23 we make a plan for each of those vote centers with
24 temporary remediations whether they be ramps, cones,
25 doorstops, plates, et cetera, alternate entrance and

1 exits. And that is again -- is -- is reviewed and
2 approved.

3 And so those remediations are planned for
4 each of those vote centers. Additionally, our machines
5 that we have, our Duo-Gos for curbside voting for our
6 voters with disabilities, are implemented on -- during
7 early voting and Election Day. And then our, you know,
8 we have our interpreter iPads. We have our interpreter
9 requests. So there's -- there's a myriad of things that
10 we're able to implement for voters with disabilities.

11 Q. Would you agree me that Harris County takes its
12 responsibilities under the ADA seriously?

13 A. Yes.

14 Q. And would you agree with me that Harris County
15 has been successful in ensuring that its voting program
16 is accessible to voters with disabilities?

17 A. I do.

18 Q. Did any voter submit a disability complaint
19 form for the November 2022 general election?

20 A. Yes.

21 Q. And generally, what were the substance of these
22 complaints?

23 A. There was three, and they were provided in
24 our -- the spreadsheet with our complaint forms.

25 Unfortunately, I don't know them off the top of my head,

1 but there were three, I believe within that document.

2 MS. HUNKER: And, Counsel, just for
3 clarification, do you know when that document was
4 produced?

5 MR. BIRRING: I don't think we have
6 produced that one.

7 MS. BINGHAM: No, that's the -- that's the
8 call log.

9 MR. BIRRING: No, no. This is a separate
10 one. This is the ADA complaint form.

11 MS. BINGHAM: Oh.

12 MR. BIRRING: It's a spreadsheet, and I
13 think there were three. I think I have it. I might
14 have it. Should we go off the record?

15 MS. HUNKER: Yeah, can we go off the
16 record?

17 MR. BIRRING: Yeah, let's go off the record
18 for a second.

19 THE VIDEOGRAPHER: We are going off the
20 record at 9:47 a.m.

21 (Recess from 9:47 a.m. to 9:56 a.m.)

22 THE VIDEOGRAPHER: We are back on the
23 record at 9:56 a.m.

24 Q. (BY MS. HUNKER) So, Ms. Smith, during the
25 break, your counsel provided me a electronic copy of the

1 complaint form you had just mentioned. I believe he
2 also showed you a copy as well; is that correct?

3 A. Yes.

4 Q. And we are going to be waiting for the printout
5 to be submitted as an exhibit. But to save time, you
6 and I are going to discuss the electronic version which
7 will be identical.

8 Is that understood?

9 A. That's correct, yes.

10 Q. And this will be Exhibit 3.

11 (Exhibit No. 3 was marked.)

12 Q. (BY MS. HUNKER) And so you had said you
13 received three complaints through the disability
14 complaint form for the November 2022 general election;
15 is that right?

16 A. That's correct.

17 Q. And so I'm just going to quickly talk about the
18 description of the complaints. It seems one of the
19 complaints involved a judge asking the voter to leave
20 the service dog with her while he voted; is that
21 correct?

22 A. That's correct.

23 Q. And then the second involved an issue regarding
24 the court control with voting room setup, and that was
25 later addressed by a tech; is that correct?

1 A. That's correct.

2 Q. And the third one had to do with a father
3 assisting his son to vote; is that correct?

4 A. That's correct.

5 Q. To your knowledge, did any of these complaints
6 address the requirements through SB1?

7 A. The one where the father was helping his son,
8 that would pertain to our oath of assistance or the oath
9 of assistance.

10 Q. And do you recall what the controversy in that
11 case was?

12 A. Not to the specifics. But the judge had
13 confusion on what an assistant -- what the definition of
14 an assistant was as it relates to the SOS form or the
15 form -- the updated form, I should say.

16 Q. Okay. And it says here that the election judge
17 was advised that the son is eligible to vote because he
18 is registered and was also advised to allow the father
19 to assist; is that correct?

20 A. Correct. The judge has the opportunity to call
21 in to our ADA line to receive information as -- as it
22 regards to -- to any ADA policies.

23 Q. And so in this case, are you aware if the
24 father was in fact able to assist the son?

25 A. Yes, he was.

1 Q. And just to -- let me know if I'm misstating
2 what you had said. But it sounded as if the dispute was
3 over what it meant for voter assistance?

4 A. Correct. The definition of a voter assistant,
5 yes.

6 Q. And so outside of the, I guess, submission
7 regarding voting assistance, did any of the other
8 complaints address requirements or provisions of SB1?

9 A. No.

10 Q. And so you received no complaints, disability
11 complaint forms, regarding mail-in ballot requirements;
12 is that correct?

13 A. Mail-in ballot -- I'm not designated to talk
14 about mail-in ballots.

15 Q. I'm simply asking if you received any complaint
16 forms that were -- with respect to voters with
17 disabilities having a problem or concern regarding
18 mail-in ballots?

19 A. I'm sorry. No, I didn't -- we did not receive
20 a complaint form regarding mail-in ballot -- ballots
21 from voters with disabilities.

22 Q. Thank you.

23 A. Sorry.

24 Q. And you're aware that voters with disabilities
25 have the option of requesting an accommodation or change

1 to the normal voting procedure, correct?

2 A. Yes.

3 Q. Generally, do you know if there were any
4 accommodations requested during the 2022 general
5 election?

6 A. Specifically, we -- no. But we -- our -- well,
7 that's not true. We have our requests for our
8 interpreters, the SIS interpreters. But largely
9 specifically, no, I don't -- not any specific requests.

10 Q. To your knowledge, did your office receive any
11 request for accommodation regarding any of the
12 provisions in SB1?

13 A. No.

14 Q. To your knowledge, did your office receive any
15 requests for accommodation regarding the requirement
16 that mail-in voters put their social security number or
17 ID number on their application for ballot by mail?

18 A. No.

19 Q. To your knowledge, did your office receive any
20 request for accommodation regarding the requirement that
21 mail-in voters put their social security number or ID
22 number on their ballot by mail?

23 A. No.

24 Q. Thank you. I'm going to introduce our fourth
25 exhibit.

1 Did I read that sentence correctly?

2 A. Yes.

3 Q. To your understanding, is that a fair
4 description of the report?

5 A. Yes.

6 Q. To your knowledge, has Harris County ever
7 before issued a postelection report of this nature for
8 previous elections?

9 A. Yes.

10 Q. Are these also available publicly?

11 A. I would assume. I don't know.

12 Q. And did you have any role in crafting this
13 particular postelection report?

14 A. Yes.

15 Q. And what was your role?

16 A. As it pertains to vote centers, polling
17 locations, counts, anything -- our election night
18 operations, Election Day operations, probably some of
19 the planning and execution.

20 Q. So I'm going to read the next two para- -- two
21 more paragraphs and ask a couple of questions. If you
22 do not know the answer to these questions, just please
23 let me know.

24 A. Okay.

25 Q. So I want to turn to the second paragraph. It

1 Q. And I believe that would Spanish, Chinese, and
2 Vietnamese?

3 A. Correct.

4 Q. In addition to English?

5 A. Uh-huh.

6 Q. Looking at the hours that voting locations were
7 open during the early voting period in November 2022, do
8 you know if they were open for more hours in 2022 as
9 compared to the last midterm election in 2018?

10 A. In 2018?

11 Q. Yeah, last midterm election.

12 MS. HOLMES: Objection to form.

13 MR. BIRRING: Objection to form.

14 A. I have no idea what that, means.

15 Q. (BY MS. HUNKER) Okay.

16 A. I was not here in 2018. I don't -- I can't
17 answer that question.

18 Q. And so, if we look at the early voting hours of
19 operation, it says Monday through Saturday,
20 October 24th-29th. Hours were open 7:00 a.m. to
21 7:00 p.m., correct?

22 A. Correct.

23 Q. And then on Sunday, October 30th, the hours
24 were open from 12:00 p.m. to 7:00 p.m.; is that right?

25 A. Yes.

1 A. Correct.

2 Q. And then the next paragraph states: "The
3 overall selection process involves the following." The
4 paragraph then lists ten steps of the selection process;
5 is that right?

6 A. Yes.

7 Q. Is that an accurate list of the steps Harris
8 County takes when selecting polling locations?

9 A. Yes.

10 Q. To your knowledge, is this list complete?

11 A. Yes.

12 Q. And so location will not be selected as a
13 voting center if the location is not ADA compliant,
14 correct?

15 A. To the best of our ability.

16 Q. And Harris County works to ensure that its
17 residents have easy access to voting locations during
18 election, correct?

19 A. Correct.

20 Q. And Harris County works to ensure that its
21 residents have voting locations in close proximity to
22 where they live and work?

23 A. Yes.

24 Q. And would you consider Harris County's efforts
25 at proving voters easy access to in-person voting

1 locations successful?

2 MS. HOLMES: Objection to form.

3 A. Yes.

4 Q. (BY MS. HUNKER) Would you agree that Harris
5 County provides its residents with ample opportunities
6 to vote in person?

7 MS. HOLMES: Objection to form.

8 A. Yes.

9 Q. (BY MS. HUNKER) And so when you're selecting a
10 location, do you work with stakeholders?

11 A. Yes.

12 Q. And who are the stakeholders?

13 A. Commissioners Court staff and representatives
14 of each party.

15 Q. And do you also take input from community --
16 from the community?

17 A. To an extent.

18 Q. To what extent?

19 A. Consideration.

20 Q. And it says here on No. 9: "After review by
21 stakeholders and considering all stakeholder feedback,
22 locations list was submitted to Department of Justice
23 for review and submitted to Commissioners Court for
24 approval."

25 Did I read that correctly?

1 A. Yes.

2 Q. And so if the locations in the November 2022
3 general election, did -- were the location list
4 submitted to the Department of Justice?

5 A. Yes.

6 Q. And did you receive any feedback from the
7 Department of Justice?

8 A. Various feedback would have included, you know,
9 could we have found an -- if a approved location was
10 noncompliant, nonremediable, could we have found an
11 alternate location that perhaps was compliant but then
12 provided a list of reasons if that instance came about
13 why we couldn't find an alternate location. It's our
14 practice to find an alternation location no matter what
15 should the facility be noncompliant.

16 Q. And do you take into account the Department of
17 Justice's feedback when making the final decision on
18 your locations for voting centers?

19 A. To the best of our ability, yes.

20 Q. And let's just turn to page 7. Now, I believe
21 you were also designated for 22, Topic 22, which is any
22 problems, concerns, difficulties, breakdown, or delays
23 you experienced during the November 2022 general
24 election and that you were designated in part. And so,
25 if at any point when we're having this conversation you

1 A. As it pertains to projected voter turnout.

2 Q. To your knowledge, Attachments 1 and 2 contain
3 accurate information; is that right?

4 A. Yes.

5 Q. Did Harris County have any significant problems
6 with wait times at the polling locations during the 2022
7 general election early voting period?

8 A. Not to --

9 MR. BIRRING: Objection to form.

10 MS. HOLMES: Objection to form.

11 MR. BIRRING: You can answer.

12 A. Not to my knowledge.

13 Q. (BY MS. HUNKER) And I see on page 17 -- if we
14 can go to that. It says there's a "Wait Time Reporter."

15 Do you see what I'm referring to?

16 A. Yes.

17 Q. Is it correct that Harris County offered an app
18 on their website that provided voters with wait times
19 for each early voting center?

20 A. Yes.

21 Q. For the most part, did the wait time report --
22 reporter work as intended during the 2022 general
23 election's early voting period?

24 A. As it intended, yes.

25 Q. And so the last paragraph of page 17 reads:

1 "EVCs experienced common problems associated with
2 staffing, technical support, equipment operations, and
3 wait time updates."

4 Did I read that correctly?

5 A. Yes.

6 Q. And this is with respect to early voting,
7 correct?

8 A. Yes.

9 Q. What is the "controller not found" issue?

10 A. It's a connection issue.

11 Q. And so how does that affect the controller's
12 operations?

13 A. I -- I'm not at liberty -- I can't speak on the
14 technical piece of the machines.

15 Q. Do you know if it would have allowed -- and so
16 you don't know what it refers to with respect to the
17 machine being able to operate?

18 A. I -- I can't speak on to -- to the extent of
19 its failure if it has an operational issue. I -- I'm --
20 I do not deal with the technical part of the machines in
21 testing the machines or the -- the -- the on-site
22 technician's, you know, ability to troubleshoot on-site.

23 Q. Okay. So the "controller not found" issue, do
24 you know if that would have made the controller
25 inoperable while that problem was being addressed?

1 A. Yes. If -- if the controller was not found
2 then, you know, I -- obviously then the machines, you
3 know, created a -- a lapse. And so then they would have
4 to be troubleshooted, whether that would be over the
5 phone or a tech on-site.

6 Q. And so would that prevent, I guess, election
7 workers from being able to check in voters?

8 A. Would the controller not found prevent -- well,
9 their check-in voters is on ePollbook. But to -- to --
10 for the voter to carry their vote through, yes, that
11 would be a prevention of that once -- until the
12 machine was -- the issue was fixed.

13 Q. And can that slow the processing of voters
14 through the polling site?

15 A. For an on-site technical issue, yes.

16 Q. And so the next page reads: "EVCs also
17 experienced paper ballot jams when the voter was feeding
18 the blank paper into the Duo. On certain occasions, a
19 voter's ballot would jam at the Duo and would have to be
20 spoiled and reprinted. On certain occasions, the ballot
21 would not scan into the scan."

22 Did I read that correctly?

23 A. Yes.

24 Q. Harris County had a two-page ballot, correct?

25 A. Correct.

1 Q. And so for each voter, there were two
2 opportunities for the ballot to jam or fail to scan; is
3 that right?

4 A. Correct.

5 Q. And jams and failures to scan can slow the
6 processing of voters through the election site, correct?

7 A. Correct.

8 Q. Overall, would you consider Harris County's
9 in-person early voting program a success?

10 A. Yes.

11 Q. And so you were not doing delayed openings,
12 correct? That's another designee?

13 MS. BINGHAM: Yes.

14 Q. (BY MS. HUNKER) And so I want to look at
15 Election Day. Can you turn to page 20, please.
16 Actually, before we do, let's turn to page 19. My
17 apologies.

18 So it says here that there's an election
19 help desk; is that right?

20 A. Yes.

21 Q. Okay. And it says: "The EAO operates a
22 50-person help desk call center to receive calls from
23 election workers regarding any manner of support. The
24 help desk contacts tech rovers and area representatives
25 when an issue could not be resolved over the phone. The

1 help desk included members of the election worker
2 training team, temporary election workers, technical
3 experts, and other EAO staff."

4 Did I read that correctly?

5 A. Yes.

6 Q. And then if we turn the page on page 20. It
7 says: "The EAO help desk received over 1,600 logged
8 calls for VC support related to staffing, equipment
9 support, procedural questions, supplies, and paper
10 ballots."

11 Did I read that correctly?

12 A. Yes.

13 Q. Are you aware if election workers called the
14 help desk but were unable to get through?

15 A. Am I aware of any -- I am aware of long hold
16 times, yes.

17 Q. Okay. And so is it plausible that there were
18 calls made that were not received by the help desk
19 because of the delay?

20 MS. HOLMES: Objection to form.

21 A. I can't verify that.

22 Q. (BY MS. HUNKER) Okay. Did you talk to any of
23 the election workers about their experience calling the
24 help desk?

25 A. No.

1 Q. And so if we go to the next paragraph, it says:
2 "Of the 1,600 calls, 368 calls, 23 percent, related to
3 ePollbooks, the Duos, Duo-Gos, Controllers, and Scans.

4 Did I read that correctly?

5 A. Yes.

6 Q. It then says: "128 calls, 8 percent, related
7 to supplies and ballot paper; and, 143, 9 percent,
8 related to election worker procedural questions."

9 Did I read that correctly?

10 A. Yes.

11 Q. And then if we go where it says No. 3,
12 "Election Day Challenges."

13 Do you have that in front of you?

14 A. I do.

15 Q. It reads: "The common problems reported and
16 encountered on Election Day included VCs not opening on
17 time, technical problems associated with the Controller
18 not found, Duo paper jams, ePollbook wait times, paper
19 ballot supply at several locations, and staffing."

20 Did I read that correctly?

21 A. Correct.

22 Q. Okay. And so the "controller not found" issue
23 persisted on Election Day; is that right?

24 A. Yes.

25 Q. And do you know the extent that that issue was

1 throughout the polling locations?

2 A. I don't.

3 Q. And then it says in number -- letter C,
4 "ePollbook wait time updates."

5 Do you see that?

6 A. I do.

7 Q. "During the early part of Election Day, the
8 ePollbook AWS server lost replication which prevented
9 the wait time tool from updating the website, prevented
10 the supply team from seeing real-time check-in, and
11 disabled the sample ballot lookup feature."

12 Did I read that correctly?

13 A. Yes.

14 Q. It continues: "This had a direct impact on the
15 ability to see how many voters were being checked in and
16 what the wait times were at any VC. The vendor was able
17 to reestablish replication, which brought the wait time
18 tool and sample ballot back online and allowed supply to
19 reengage communications at the VCs."

20 Did I read that correctly?

21 A. Yes.

22 Q. And so when we were talking about the app for
23 wait times, is that what this is addressing?

24 A. Yes.

25 Q. And so it sounds as if that app for wait times

1 was down for a portion of Election Day; is that right?

2 A. Yes.

3 Q. Do you know how long it was down?

4 A. I want to say two hours.

5 Q. And did you have any complaints regarding wait
6 times on Election Day?

7 A. I did not receive any complaints regarding wait
8 times, no.

9 Q. Are you aware of any significant wait times at
10 the different polling locations in Harris County on
11 Election Day?

12 MR. BIRRING: Objection to form.

13 A. I'm not.

14 Q. (BY MS. HUNKER) And so we're going to look at
15 letter B, "Ballot Paper Supply." It says "The EAO
16 received reports that several VCs needed ballot paper
17 delivery during" that -- "during the day. An initial
18 media report indicated that at least 20 VCs ran out of
19 paper."

20 Did I read that correctly?

21 A. Yes.

22 Q. And if we jump to page 21, it says: "The EAOs
23 call logs reflect that the help desk received calls from
24 46 VCs, 5.9 percent, requesting additional paper on
25 Election Day. This does not indicate that the VCs ran

1 out of paper and had turned voters away as a result,
2 only that they required additional paper at some point
3 on Election Day."

4 Did I read that correctly?

5 A. Correct.

6 Q. And if you jump to -- not the next page but the
7 page -- sorry -- not the next page but the next
8 paragraph after that. It reads: "Our investigation has
9 not yet revealed how many of these VCs had to turn
10 voters away due to a paper shortage. Media reports
11 claim that a total of 24 VCs, 3.1 percent, ran out of
12 paper and had to turn voters away."

13 Did I read that correctly?

14 A. Yes.

15 Q. Has your office investigated how many voting
16 centers ran out of paper since this report came out?

17 A. I don't know.

18 Q. Are you aware of how many voting centers would
19 have ran out of paper on Election Day?

20 A. I'm not aware of any voting centers running out
21 of paper on Election Day.

22 Q. Going to hand over our next exhibit.

23 (Exhibit No. 6 was marked.)

24 MS. HOLMES: Kathleen, do you have one
25 more?

1 THE WITNESS: Thank you.

2 MS. HUNKER: Sorry.

3 MS. HOLMES: That's okay.

4 Q. (BY MS. HUNKER) Do you have that exhibit in
5 front of you?

6 A. I do.

7 Q. And so the title of this document reads: "KHOU
8 11 Analysis: Election ballot paper shortage bigger than
9 estimated."

10 Did I read that correctly?

11 A. Uh-huh, yes.

12 Q. Have you seen this article before?

13 A. I have.

14 Q. You have; is that correct?

15 A. Yes.

16 Q. And so if look at subtitle, it says: "KHOU 11
17 Investigates discovered that 121 voting centers did not
18 initially receive enough ballot paper to cover voter
19 turnout."

20 Did I read that correctly?

21 A. You did, yes.

22 Q. And if we turn to the next page, it states
23 something similar: "KHOU 11 Investigates compared
24 ballot paper packets allocated to the number of votes
25 cast and discovered that 121 voting centers did not

1 initially receive enough ballot paper to cover voter
2 turnout."

3 Did I read that correctly?

4 A. Yes.

5 Q. "The county allocated each of the" six -- "each
6 of the locations six ballot paper packets or enough for
7 600 ballots."

8 Did I read that correctly?

9 A. Yes.

10 Q. "But the total votes cast exceeded that amount,
11 sometimes by hundreds of ballots. For example,
12 946 Election Day ballots were cast at the Bellaire Civic
13 Center, 990 at the Warner Elementary School, and 1,037
14 at the Salyards Middle School."

15 Did I read that correctly?

16 A. Yes.

17 Q. Has the Elections Office sought to corroborate
18 the information that was reported by KHOU 11?

19 A. Can you explain the question?

20 MS. BINGHAM: Object to form.

21 Q. (BY MS. HUNKER) Sure. So you have here a news
22 article stating that 121 voting centers did not
23 initially receive enough ballot paper, correct?

24 A. Uh-huh.

25 MS. BINGHAM: Object to form.

1 Q. (BY MS. HUNKER) Has your office done any
2 research to see whether or not that report -- reporting
3 was accurate?

4 A. Yes.

5 Q. And what was your determination?

6 A. I can't speak on the determination. That's
7 a -- invest- -- or the report is done by Rachelle. She
8 can speak further on that.

9 Q. Okay. Then we can put this aside for now. I'm
10 going to hand over our next exhibit.

11 THE WITNESS: Thank you.

12 MS. HUNKER: And my apologies. I think I'm
13 one short on this one as well.

14 (Exhibit No. 7 was marked.)

15 MS. HOLMES: Is this 7?

16 THE WITNESS: Yes.

17 MS. HUNKER: I believe so.

18 Q. (BY MS. HUNKER) Do you have the document in
19 front of you?

20 A. I do.

21 Q. And so this a news article with the title
22 "Harris County Elections Administrator can't answer why
23 polling locations ran out of paper"; is that correct?

24 A. Yes.

25 Q. And you -- let's just turn the page. You see

1 A. No, I don't.

2 Q. (BY MS. HUNKER) So you were also designated to
3 speak on Topics 25 and 26, and so we're going to address
4 those. 25 is communications between you and the
5 United States Department of Justice, Department of
6 Homeland Security, and Department of State regarding
7 election administrating, voting, and possible incidents
8 of criminal activity conducted in connection with the
9 November 8th, 2022, general election.

10 MS. PAIKOWSKY: Kathleen, I'd like to just
11 raise that, any of the communications concerning ongoing
12 investigations, we, you know, reserve the right to raise
13 investigatory privileges we have throughout this case.

14 MS. HUNKER: Of course. And Texas has
15 been, I think, pretty good over the course of this case
16 in identifying when we thought investigative privilege
17 would be relevant for the United States.

18 MS. HOLMES: I agree. I agree. I just
19 wanted to -- to put it on the record.

20 Q. (BY MS. HUNKER) Has the Department of Justice
21 contacted you about any violation of federal law in
22 connection with the 2022 general election?

23 A. No.

24 Q. Has the Department of Homeland Security
25 contacted you about a violation of federal law in

1 connection with the 2022 general election?

2 A. No.

3 Q. Has the Department of State contacted you about
4 a violation of federal law in connection with the
5 November 2022 general election?

6 A. No.

7 Q. Has the Department of Justice contacted you
8 regarding any type of illegal voting activity that would
9 have occurred in the November 2022 general election?

10 A. No.

11 Q. Has the Department of Homeland Security
12 contacted you regarding any illegal -- fraud or illegal
13 voting activity in connection with the November 2022
14 general election?

15 A. No.

16 Q. And has the Department of State contacted you
17 regarding any incident of fraud or illegal voting
18 activity in connection with the November 2022 general
19 election?

20 A. No.

21 Q. Have you contacted the Department of Justice
22 regarding a potential violation of federal law in
23 connection with the November 2022 general election?

24 A. No.

25 Q. Have you contacted the Department of Homeland

1 Security regarding a potential violation of federal law
2 in connection with the November 2022 general election?

3 A. No.

4 Q. Have you contacted the Department of State
5 regarding a potential violation of federal law in
6 connection with the November 2022 general election?

7 A. No.

8 Q. And have you contacted the Department of
9 Justice, Department of Homeland Security, or Department
10 or State regarding any potential fraud or illegal voting
11 activity?

12 A. No.

13 Q. And so the next sec- -- the next topic is 26,
14 your interactions with communications with poll monitors
15 deployed by the Department of Justice during the
16 November 8th, 2022, general election. You're aware the
17 Department of Justice sent poll monitors to voting
18 locations in Harris County?

19 A. I am.

20 Q. Are you aware of any communications made
21 between DOJ poll monitors and election workers that
22 addressed any observations made by the poll monitors?

23 A. I'm not.

24 Q. At any time on Election Day, did the poll
25 monitors deployed by the Department of Justice

1 communicate with your office about their observations at
2 Harris County polling sites?

3 A. I don't know.

4 Q. Did the Department -- did the poll monitors
5 deployed by the Department of Justice communicate their
6 observations at any time after the election?

7 A. I don't know.

8 Q. Did anyone at the Department of Justice
9 communicate to your office about the observations made
10 by the Department of Justice poll monitors when they
11 were deployed at Harris County polling location?

12 A. I don't know. I wouldn't receive any of that
13 information.

14 Q. Do you know who in your office would have?

15 A. Mr. Tatum for certain. I would assume a few
16 other but Mr. Tatum for certain.

17 Q. And so is it fair to say that -- in preparation
18 for today's deposition, what did you do in preparation
19 for this particular topic?

20 A. Reviewed with our counsel in terms of what my
21 knowledge is for -- for poll mon- -- poll monitors
22 deployed by the Department of Justice.

23 Q. And so is it fair to say that you received
24 no -- that you're aware of no complaints from the
25 Department of Justice or their monitors about how the

1 2022 general election was conducted in Harris County?

2 A. That's fair.

3 Q. And so you're aware of no complaints from the
4 Department of Justice alleging that their monitors
5 witnessed intimidation, discrimination, harassment, or
6 misconduct from Harris County election workers?

7 A. I'm sorry. Repeat that question.

8 Q. So you're not aware of any complaints from the
9 Department of Justice alleging that their monitors
10 witnessed intimidation, discrimination, harassment, or
11 misconduct from Harris County election workers?

12 A. I'm not aware, no.

13 Q. And you're not aware of any complaints from the
14 Department of Justice alleging that their monitors
15 witnessed intimidation, discrimination, harassment, or
16 misconduct from poll watchers assigned to Harris
17 County's polling locations; is that correct?

18 A. I'm not aware. Correct.

19 Q. And you're not aware of any complaints in the
20 Department of Justice alleging that voters could not
21 obtain assistance when casting their ballot; is that
22 correct?

23 A. That's correct.

24 Q. Would you be the individual who would know
25 about curbside voting?

1 A. Yes.

2 Q. And can you just briefly describe what is
3 curbside voting?

4 A. Curbside voting allows voters with dis- --
5 well, it is in- -- intended for voters with disabilities
6 to be able to vote from their vehicles with our Duo-Go
7 machines that are transportable to the vehicle outside
8 of the vote center.

9 Q. And that is available for any voter who is
10 unable to enter the polling place; is that correct --

11 A. Correct.

12 Q. -- for reason of disability or illness?

13 A. Correct.

14 Q. And is there a curbside loc- -- was there a
15 curbside location at each of the polling location in
16 Harris County during early voting?

17 A. Yes.

18 Q. And was there a curbside location at each of
19 the polling locations on Election Day?

20 A. Yes.

21 Q. Are you aware of any person who transported
22 seven or more individuals to a polling location and was
23 required to fill out a form pursuant to Section 64.009
24 of the Election Code?

25 A. No.

1 Q. And so your office did not send any affidavits
2 to the secretary of state pursuant to that section of
3 the Election Code --

4 A. No.

5 Q. -- is that right?

6 A. No.

7 Q. And you're not aware of any individual who
8 refused to transport seven or more individuals to a
9 polling location because the requirement that the
10 individual fill out a form stipulated in Section 64.009
11 of the Election Code?

12 MS. HOLMES: Objection to form.

13 A. No.

14 Q. (BY MS. HUNKER) And you're not aware of any
15 voter who was unable to find transportation to the polls
16 because the requirement that a person who transports
17 seven or more people to a polling location fill out a
18 form stipulated in Section 64.009?

19 MS. HOLMES: Objection to form.

20 A. No.

21 Q. (BY MS. HUNKER) And I'm sorry. I didn't hear.
22 You're are not aware?

23 A. No, I'm not aware.

24 MR. BIRRING: You want to take a break?

25 MS. HUNKER: I was actually about to say

1 I'm about to pass the witness. I'm going to -- I think
2 we are done for at least my part. I might have
3 questions after my cocounsel.

4 THE WITNESS: Okay.

5 MS. HUNKER: Sorry. Not my cocounsel,
6 opposing counsel. But I think we can take a break and
7 then switch.

8 MR. BIRRING: Yeah. Perfect.

9 THE VIDEOGRAPHER: We are going off the
10 record at 10:53 a.m.

11 (Recess from 10:53 a.m. to 11:24 a.m.)

12 THE VIDEOGRAPHER: We are on the record at
13 11:24 a.m.

14 EXAMINATION

15 BY MS. HOLMES:

16 Q. Good morning, Ms. Smith. My name is Jennifer
17 Holmes, and I represent the private plaintiffs in this
18 case, specifically the HAUL plaintiffs. I'm going to
19 ask you some questions about similar topics that
20 Ms. Hunker asked you about.

21 Does your office have written ADA policies,
22 practices, and procedures that were in place before the
23 November 2022 election related to accommodations for
24 vote by mail?

25 A. Accommodations for vote by mail, written

1 procedures, yes.

2 Q. Okay. And do you train your staff on those
3 procedures about how they should respond to
4 accommodations -- requests for accommodations related to
5 vote by mail?

6 A. Yes.

7 Q. Okay. And when was the most recent training
8 before the November 2022 election?

9 A. So I know that those things are in place, but
10 Jennifer Colvin would be the person to answer the
11 questions --

12 Q. Okay.

13 A. -- in terms of the timelines of, you know,
14 anything related to trainings of vote by mail or...

15 Q. Do you know how often the trainings occur?

16 A. I don't.

17 Q. In terms of the content of those trainings,
18 what are your employees trained to do if a person with a
19 disability requests a reasonable accommodation to the
20 vote-by-mail process?

21 A. Request to vote a reasonable -- to vote by
22 mail -- I don't know.

23 Q. Would Ms. Colvin --

24 A. Yeah.

25 Q. -- have the answer to that?

1 A. Uh-huh. So we -- accessibility, the department
2 under operations for accessibility, so any requests that
3 we need for a voter with disabilities on-site at a vote
4 center. So any previous request that we have to aid
5 that voter is -- they write in to us, to our ADA
6 contacts, and then we're able to establish and provide
7 the assistance needed for them to vote in person.

8 Q. Okay. So is your testimony just now related to
9 voting in person?

10 A. Correct.

11 Q. Okay. And in terms of requesting any modif- --
12 any accommodations for vote by mail, can you describe
13 what that process is?

14 A. I can't.

15 Q. Okay. Does your office train election judges,
16 election clerks, and other poll workers on how to
17 accommodate voters with -- with disabilities related to
18 vote by mail?

19 A. I do believe that it is in our training manual
20 and our training documents for election workers and
21 judges.

22 Q. And do you know when the last training before
23 the November 2022 election was?

24 A. Rachelle's department is the one that trains
25 all the judges; so she would have a better answer for

1 exact dates.

2 Q. In terms of the contents of that training, are
3 you familiar with how election judges, clerks, and other
4 poll workers are trained to accommodate voters with
5 disabilities related to vote by mail?

6 A. I'm not.

7 Q. And in advance of the November 2022 election,
8 did your office make any inquiries to the Texas
9 Secretary of State about providing accommodation to
10 voters with disabilities related to vote by mail?

11 A. I'm not aware.

12 Q. Has the Texas Secretary of State provided your
13 office with any written guidance related to the ADA
14 since the May 2022 primary?

15 A. Written guidance as it pertains to...

16 Q. To the American with Disabilities Act.

17 A. I mean, if there's any updated notices,
18 postings that are required, and then -- then we will
19 receive -- either receive or go to the SOS to ask for an
20 updated form.

21 Q. And do you know whether were -- there were any
22 updates from May 2022 to -- up to the November 2022
23 election?

24 A. No significant updates.

25 Q. Has the secretary of state offered any training

1 related to the Americans with Disabilities Act since
2 May 2022 to your office?

3 A. No.

4 Q. And at any time has the secretary of state
5 offered any training to your office related to
6 provisions of SB1 and the Americans -- how they
7 interacts with the Americans with Disabilities Act?

8 A. I don't -- I'm not aware.

9 Q. Ms. Hunker asked you about the disability
10 complaint form, and she walked through three complaints
11 on that form. Do you recall that?

12 A. I do.

13 Q. Do voters ever contact your office about issues
14 related to disabilities in voting outside of the
15 disability complaint form process?

16 A. They -- if they would, they would be in our --
17 they would call our -- our help line or our call center,
18 and so those are recorded in the call logs.

19 Q. So you mentioned they can call a help line.
20 Are there any other ways in which a voter can contact
21 your office re- -- related to issues of voting with a
22 disability?

23 A. Sure. Our ADA e-mail inbox. It would be --
24 you know, they can contact us there directly, and we can
25 handle them as they come in.

1 Q. Okay. Any other ways they can contact your
2 office?

3 A. General phone line, and then it gets
4 transferred to our accessibility department.

5 Q. Do voters ever come in person and ask questions
6 about voting with a disability?

7 A. No.

8 Q. Do you believe that the three complaints from
9 the disability complaint form that you discussed with
10 Ms. -- Ms. Hunker represent the full scope of any
11 questions or concerns that voters contacted your office
12 about -- relating to voting with a disability?

13 A. No.

14 Q. In her deposition of April of 2022, the former
15 Harris County Election Administrator, Isabel Longoria,
16 indicated that, before the March primary election,
17 voters with disabilities contacted your office to
18 request a reasonable accommodation to cure their
19 application to vote by mail in ways other than appearing
20 in person or appearing online.

21 Are you familiar with that?

22 A. I'm not.

23 Q. Okay. Do you know if -- if during the
24 November 2022 election, did any voters with disability
25 contact your office seeking a reasonable accommodation

1 Q. (BY MS. HUNKER) Do you have the exhibit in
2 front of you?

3 A. I do.

4 Q. Do you recognize it?

5 A. I do.

6 Q. And what is it?

7 A. Our elections manual.

8 Q. And this was issued by the Harris County
9 Elections Office?

10 A. Yes.

11 Q. And I will represent to you that I only
12 included the pages that would be relevant to today's
13 deposition. It's not the full --

14 A. I was going to say it's much longer than this.

15 Q. It's not the full 200-page-and-something
16 document. If you can turn to the last page which
17 internally is 100- -- page 110 in the document.

18 A. 110. Okay.

19 Q. And do you see the part that's -- I guess it's
20 white font in the black background?

21 A. Yes, at the bottom.

22 Q. Yes.

23 A. Yes.

24 Q. And it says: "A person who simultaneously
25 assists seven or more curbside voters by providing the

1 Voters transportation to the Vote Center must complete
2 and sign a form, provided by a Judge, that contains the
3 person's name and address and whether the person is
4 providing assistance solely for curbside or is providing
5 additional assistance to the Voter."

6 Did I read that correctly?

7 A. Yes.

8 Q. And so Harris County only would have provided
9 this form to an individual who was simultaneously
10 assisting seven or more curbside voters by providing
11 voters transportation to the vote center; is that right?

12 A. Yes, as it says curbside voting.

13 Q. And Harris County would not have provided the
14 form for any individual who was transporting individuals
15 not for curbside; is that correct?

16 A. Correct.

17 Q. You can put that aside for the moment. I want
18 to go back to the postelection report, Exhibit 4,
19 specifically page 17. You and counsel discussed the
20 Footnote 14; is that correct?

21 A. Yes.

22 Q. This footnote is in reference to in-person
23 early voting operations; is that right?

24 A. Yes.

25 Q. You do not have a similar footnote for Election

1 Day operations and performances; is that correct?

2 A. I do not see that, no.

3 Q. Did you assess the technical problems in other
4 counties for the November 2022 general election?

5 A. No.

6 Q. And did you compare Harris County's technical
7 difficulties with the technical difficulties experienced
8 by other counties in Texas for the November 2022 general
9 election?

10 A. No. I would say those are uncomparable,
11 though.

12 Q. How so?

13 A. Due to the size of our county.

14 Q. So you don't know whether the counties
15 experienced similar technical problems with their
16 equipment?

17 A. I don't know.

18 Q. You had mentioned that in-person voting
19 locations needed deliveries of ballot paper in previous
20 elections; is that correct?

21 A. Yes.

22 Q. Did you compare how many locations needed
23 additional ballot paper in previous elections as
24 compared to the general election in 2022?

25 A. No.

1 Q. Are you aware if there were any claims in
2 previous elections that polling centers had ran out of
3 paper?

4 A. No.

5 MS. HUNKER: No more questions. Thank you
6 very much.

7 THE WITNESS: Thank you.

8 MS. HUNKER: I think we can go off the
9 record.

10 THE REPORTER: Hold on. Before we go off
11 the record, can we clarify Exhibit 3?

12 MS. HUNKER: Yes. I just want to make sure
13 this is the correct document before I give it the court
14 reporter.

15 MR. BIRRING: Yeah. It looks like it's not
16 in order for -- well, the three about this election are
17 at the bottom of the first page for some reason. So for
18 whatever reason, it didn't end up in chronological
19 order. But when we do give it to you as like a
20 Bates-stamp document, we'll make sure it looks right;
21 but, yeah.

22 THE WITNESS: Do you need this?

23 MS. HUNKER: We can go off the record.

24 THE VIDEOGRAPHER: We are going off the
25 record at 12:07 p.m.